

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

SARAH A. ADAMS and FLOYD A.
ADAMS,

Plaintiffs, Civ. No. 12-143-PA

TEMPORARY RESTRAINING ORDER

v.

BANK OF NEW YORK MELLON, AS
TRUSTEE FOR THE CERTIFICATE
HOLDERS OF CWABS, INC. ASSET-
BACKED CERTIFICATES, SERIES
2004-AB2 and RECONTRUST
COMPANY, N.A.,

Defendants.

PANNER, J.

Plaintiffs seek an ex parte temporary restraining order to enjoin the foreclosure sale of their house. Plaintiffs allege the house is scheduled for a foreclosure sale on February 10, 2012 and defendants have not complied with the legal requirements for a valid non-judicial foreclosure. Specifically, plaintiffs allege defendants failed to record all assignments of the trust deed in the county land records prior to initiating the foreclosure proceedings. In Oregon, a party initiating non-judicial

foreclosure proceedings must record all assignments of the trust deed. ORS 86.735(1); Hooker v. Northwest Trustee Services, Inc., 2011 WL 2119103, *3 (D. Or. May 25) (citing Burgett v. MERS, 2010 WL 4282105, at *2 (D. Or. Oct. 20) and In re McCoy, 2011 WL 477820, at *3-4 (Bankr. D. Or. Feb. 7)).

Because of the alleged imminent foreclosure sale, and because plaintiffs allege specific facts that, if true, create serious questions as to whether defendants complied with the recording requirements of the Oregon Trust Deed Act, I grant plaintiff's request for a temporary restraining order (#3).

Defendants, and their officers, agents, etc..., and other persons in active concert or participation with defendants, who receive actual notice of this order, are restrained from conducting a foreclosure sale for the following property: 2142 Scenic Avenue, Central Point, Oregon, from this day until February 17, 2012, at 5:00 p.m. This court will hold a hearing on whether to issue a preliminary injunction at 10:00 a.m. on February 17, 2012, in Medford.

IT IS SO ORDERED.

DATED this 3 day of February, 2012 at 10:00 a.m.



OWEN M. PANNER
U.S. DISTRICT JUDGE